



Legislative Department  
Seattle City Council  
Memorandum

Date: July 22, 2011

To: Councilmembers Sally J. Clark, Tim Burgess, and Sally Bagshaw  
Committee on the Built Environment (COBE)

From: Rebecca Herzfeld, Council Central Staff

**Subject: July 27, 2011, COBE Meeting: Proposed Transfer of Development Rights Program in the Pike/Pine Conservation Overlay District**

**Introduction**

Councilmember Tom Rasmussen is sponsoring legislation to establish a Transfer of Development Potential (TDP) program for the Pike/Pine neighborhood. The goal of the proposal is to provide additional incentives for maintaining the Pike/Pine neighborhood's existing stock of "character structures" (defined as buildings that are at least 75 years old), while continuing to protect the area's special character.

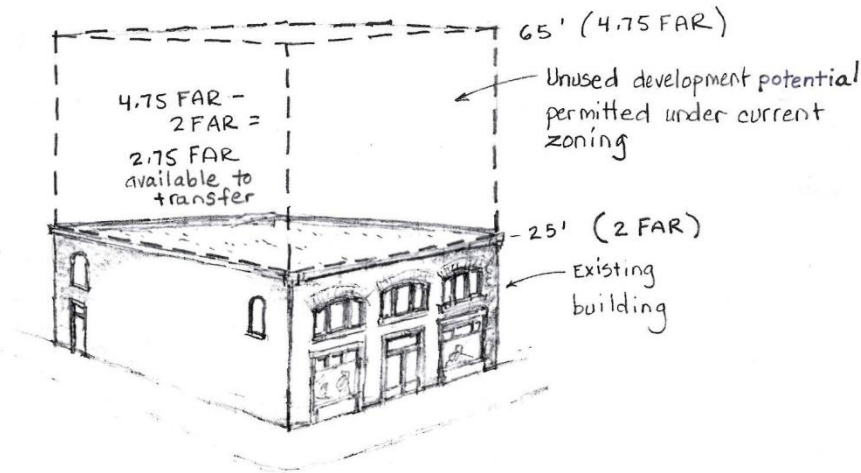
This legislation is the final phase of a three part effort. Phase I of the project was completed in June, 2009, with Council adoption of Ordinance 123020. This legislation amended the Pike/Pine Overlay District to expand the overlay area, rename the District to add "Conservation" to its title, and add provisions that limit the scale of new buildings, encourage new projects to retain existing character structures, and provide spaces for arts facilities and for small businesses. In September, 2010, the Council completed Phase II of the project by adopting revised Neighborhood Design Guidelines for Pike/Pine (Ordinance 123392), to better implement conservation goals.

The proposed schedule for review and adoption of a TDP program is summarized in the table below.

<b>Previous Actions</b>	<b>Date</b>
Publication of a consultant study of transferring development rights from Pike/Pine to downtown	September, 2008
Publication of DPD background paper on TDP	June 7, 2010
DPD publishes Pike/Pine TDP program report and draft legislation for public review	April 28, 2011
Public meeting on draft TDP program legislation	May 23, 2011
<b>Proposed Actions</b>	
DPD submits TDP program legislation to City Council, and publishes notice of: 1. the Council public hearing on TDP legislation; and 2. the environmental determination for the proposed legislation.	July 14, 2011
Council public hearing on proposed TDP legislation	August 15, 2011
Council Committee review of TDP program	August - September 2011
Council adoption of TDP program	September - October 2011

## How TDP<sup>1</sup> Works

A TDP program provides an incentive for property owners to retain existing structures by allowing them to benefit from the development potential created by the zoning—not by tearing the building down and building a bigger one, but by retaining the existing structure and selling the unused development potential on their lot to another property owner. The unused or “extra” development potential is generally the difference between the floor area of the existing building on the lot and the floor area that could be built in a new building developed to the maximum limits allowed by the zoning on the same lot (see Exhibit A below).



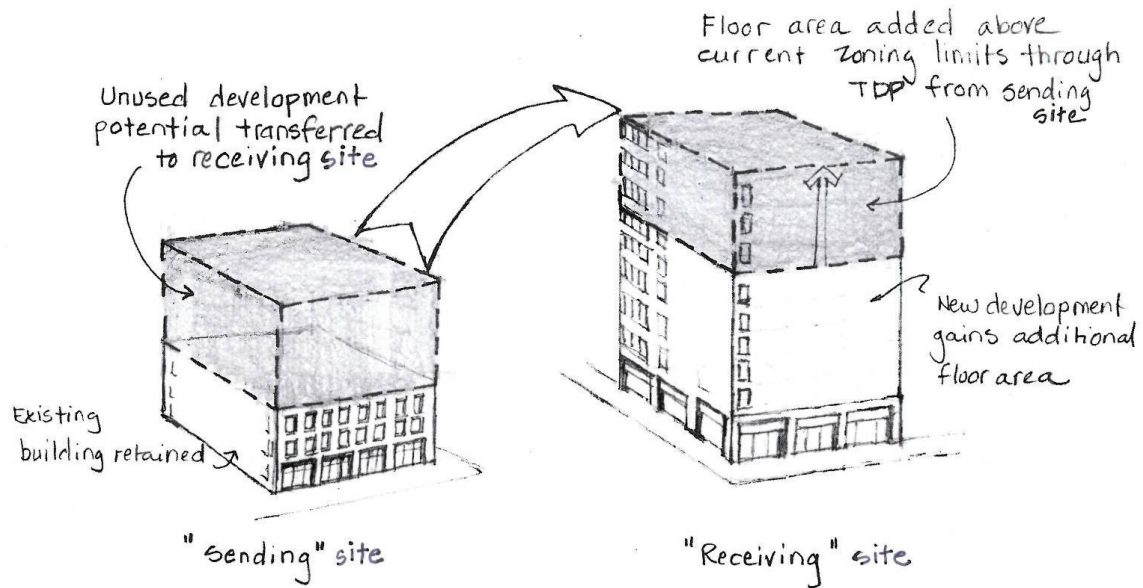
**Exhibit A: Unused development potential available to transfer in a TDP program**

A TDP program provides the mechanism for moving development rights from “sending” sites to “receiving” sites. Sending sites are lots from which the unused development rights are sold and transferred. This transaction is allowed generally in exchange for maintaining some existing feature on the sending site, such as a valued structure that may be at risk of demolition. Once the development rights are sold, they are no longer available to be used on the sending site for future redevelopment. Funds from the sale of transferred development rights may be used to maintain or improve the structure on the sending site. Often a condition for allowing the sale of development rights is that the owner of the sending site agrees to conditions placed on the property to ensure the intended public benefit.

Once purchased, the development rights are transferred to a receiving site. The receiving site must be located in an area where the zoning allows the transferred floor area to be added to a new project by permitting additional height or density above the limits otherwise allowed for projects not using TDP. In short, the development rights purchased from an existing structure on the sending site are “transferred” to add floor area to a new project on the receiving site (see Exhibit B below).

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<sup>1</sup> The City distinguishes between *commercial* development rights transferred from a site (TDR) and *residential* development rights transferred from a site (TDP).



**Exhibit B: Transfer of unused development potential from a sending site to a receiving site**

While a TDP program requires receiving areas that allow development to exceed the established limits on height or density, the potential impacts associated with the increase in development capacity on the receiving site are, in theory, offset by the reduction in development capacity on the sending site and do not result in any new or greater environmental impacts related to development density.

### **Overview of Proposed Pike/Pine TDP Program**

The proposed TDP program would apply only in the commercial zone within the boundaries of the Pike/Pine Conservation Overlay District (District). Both sending and receiving sites would be located in this area. Within this area, the proposal would designate a smaller area, called the Conservation Core. This area has the highest concentration in Pike/Pine of character structures that are identified in the 2002 Department of Neighborhoods (DON) Historic Resources Survey as having potential historic value.

A site would be eligible to sell development potential if:

- It is located anywhere in the District, and contains either a designated landmark structure or a character structure identified in a current or future DON Survey as having potential historic value, and listed in a DPD Director's Rule; or
- It is located within the Conservation Core and contains any character structure.

The sending site could transfer the unused amount of floor area available on the lot based on floor area ratio (FAR) limits. If the character structure is a designated landmark, the amount that could be transferred would be doubled.

A site would be eligible to buy development potential if it is outside the Conservation Core, and if the new project using the development rights does not result in the demolition or significant alteration of a character structure listed in the DPD Director's Rule.

The map attached to this memo shows the proposed areas for sending and receiving sites in Pike/Pine, as well as possible receiving sites.

The owner of a TDP sending site would be required to bring the character structure into compliance with applicable codes and to maintain the structure for a minimum of 50 years with no significant alterations. If the structure is a designated landmark, the Landmarks Board may impose conditions on elements of the building to be preserved or restored.

On receiving sites, an additional 10 feet above the current 65 foot height limit, for a total of 75 feet, would be permitted (note that this is a change due to public comment about the May DPD draft, which proposed a height of 85 feet on TDP receiving sites). In order to accommodate the transferred development potential, the floor area being transferred to a receiving site may to exceed the FAR limit. The square footage gained from transferred development potential could only be used for housing, not commercial space, in keeping with the goals of the Pike/Pine Neighborhood Plan.

Within the Conservation Core, the legislation would establish new limits on structure width and depth, in order to address the need for compatibility with existing development in this more sensitive area of Pike/Pine.

The estimated amount of TDP available to sell under the proposed legislation is about 2.1 million square feet, as shown on Table A below.

<b>Table A: Available TDP in Pike/Pine under the Proposed Legislation</b>		
<b>Type of Lot</b>	<b>Number of Lots</b>	<b>Available TDP in square feet (SF)</b>
Character structures within the proposed Conservation Core	59	1,291,170 SF
Character Structures listed in the DPD Director's Rule as having potential historic value that are located outside the Conservation Core	22	607,920 SF
Landmark Structures (all located outside the Conservation Core)	4	189,594 SF
<b>TOTAL available TDP</b>	<b>85</b>	<b>2,088,684 SF</b>

There are approximately 21 possible receiving sites in the Pike/Pine Conservation Overlay District, shown on the map attached to this memo, with the capacity to absorb about 215,000 square feet of development potential (see Table B), if it is assumed that all these sites take advantage of the new TDP program.

<b>Table B: Potential receiving sites greater than 8,000 square feet in size located in NC3P 65 Zones outside the Conservation Core</b>		
<b>Number of lots</b>	<b>Total lot area in square feet</b>	<b>Potential square feet of TDP absorbed by 1 additional story</b>
<b>East of Broadway</b>		
8	120,955	81,532
<b>West of Broadway</b>		
13	202,175	133,266
<b>Total</b>		
21	323,130	214,798

DPD estimates that the average rate of development in Pike/Pine has been about 100,000 square feet per year, which equals approximately one to two new buildings annually. If the new projects all take advantage of the TDP program, and assuming that the average amount available to sell per eligible sending site is approximately 22,000 square feet, under the estimate shown in Table B, about ten sending sites could sell TDP over a twenty year period. That means that about 12 percent of eligible sending sites would be able to take advantage of the program over twenty years, as shown on Table C.

**Table C: Estimated Effect of proposed Pike/Pine TDP Program over 20 years**

	Estimated <i>number</i> of eligible sending sites that could sell TDP to meet potential demand	Estimated <i>percent</i> of 84 eligible sending sites that could sell TDP to meet potential demand	Estimated percent of <i>all 146 lots with character structures</i> that could sell TDP to meet potential demand
TDP absorption estimate	10	12%	7%

### **Administration of the Proposed TDP Program**

The Office of Housing (OH) is the lead for administering the City's TDR and TDP programs, because most transfers of development rights are from low-income housing. OH staff assists purchasers and sellers, and can provide examples of previous deeds and agreements that have been used to transfer rights. The proposal would require that applicants for a new development that uses TDP pay a fee of \$550 to OH to cover the cost of administering the program. This is the same fee that is charged for transfers of development rights in downtown zones.

There is currently a list in the Land Use Code of buildings in the Pike/Pine neighborhood that are 75 or more years old and that have potential historic value. The list is needed because the changes to the Pike/Pine Overlay District that the Council adopted in 2009 allow larger floor sizes if a project incorporates a character structure that is on the list. The list in the Code is based on the 2002 DON survey, which was done as part of a citywide effort.

Comments from the public pointed out that more in-depth analysis was needed to make sure the list could be used to determine eligible TDP sending sites. The City Council and DPD therefore contracted with a historic preservation consultant in May, 2011 to update the 2002 survey. The resulting updated survey will be used to create a new list of structures that have potential historic value. The updated list is proposed to be adopted by DPD Director's Rule, rather than in the Land Use Code, so that it can be more easily updated over time. The proposed legislation provides a process for a property owner to propose that a structure be added to the Director's Rule so that it can be an eligible TDP sending site.

The value of the development potential that is transferred would be set by the market at the time of sale. While sales of landmark TDR in downtown do not indicate how rights would be valued in Pike/Pine, they do show what has happened in an adjacent neighborhood. There were seven sales of development rights from landmark buildings downtown between 1995 and 2002. The average value of the rights sold was \$13.19 per square foot, and the range of values was \$11.32 to \$17 per square foot. To help facilitate transactions, City staff are investigating the idea of setting up a TDP and TDR clearinghouse on the City's website, similar to the one on King County's website.

**Next Steps**

A public hearing before the Committee on the Built Environment is scheduled for 5:30 p.m. on August 15, 2011 in City Council Chambers.

Attachment: Map of sending and receiving areas and possible TDP Receiving Sites within Pike/Pine